Chapter I GENERAL



COMPLIANCE POLICY AND PROCEDURES MANUAL



Sales and Use Tax Department

California State Board of Equalization

February 1996

CHAPTER 1

General

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CHAPTER I

GENERAL 100.000

THE BOARD, ITS HISTORY, ORGANIZATION AND BUSINESS TAX LAWS ADMINISTERED

105.000

HISTORY 105.010

The Constitution of 1879 created the State Board of Equalization as a successor to an agency of the same name but of different composition. The Board inherited the duty of maintaining a uniform level of property assessment between counties. The Constitution added the duty of assessing intercounty railroad property and utilities. It is the oldest Board in existence in California and is the only elected Board in California State Government.

Since 1879, it has been given many additional duties — some by the Legislature, others by the voters. It is the state's major revenue agency with a staff of more than 3,900 employees collecting about one-half of the state's revenue.

The members of the Board are responsible to the people. One member is elected from each of the four equalization districts shown on the map in CPPM Subsection 105.031. Each member has the duty of investigating the administration of the laws within the district from which he or she is elected and for which the Board, as a whole, has statewide responsibility. The fifth member of the Board is the State Controller who serves exofficio.

ORGANIZATION 105.020

The Executive Director is the chief administrative officer of the Board. He is assisted by a Deputy Director in each of the following departments: Sales and Use Tax, Special Taxes, Property Tax, Administration, and Technology Services.

The Deputy Director, Property Taxes, directs the functions of the Board relating to property tax. These include: a continuous sampling program designed to determine whether the average assessed values of property in the separate counties are equalized within certain allowable tolerances; a program of assistance and instruction to county assessors and their staffs to enable them to perform their duties better and more efficiently; a contract mapping service for the counties; an assessment of privately owned public utilities for purposes of local taxation; and assessment and collection of tax on privately owned cars operated over California railroads.

The Property Tax divisions are staffed by specialists operating out of offices in Eureka, Fresno, Redding, Sacramento, Santa Ana and Union City.

The Deputy Director, Sales and Use Tax Department (SUTD), directs the administration of the Sales and Use Tax, Bradley – Burns Uniform Local Sales and Use Tax, and Transactions and Use Tax. The Deputy Director, Special Taxes Department (STD), directs the administration of the remaining business taxes programs.

ORGANIZATION (CONT. 1) 105.020

The revenue laws, code sections, and responsible departments are:

- a. Sales and Use Tax (R&T 6001 7176) (SUTD)
- b. Bradley Burns Uniform Local Sales and Use Tax (R&T 7200 7212) (SUTD)
- c. Transactions and Use Tax (R&T 7251 7279.6) (SUTD)
- d. Motor Vehicle Fuel License Tax (R&T 7301 8404) (STD Fuel)
- e. Use Fuel Tax (R&T 8601 9355) (STD Fuel)
- f. Insurance Tax (R&T 12001 13170) (STD Excise)
- g. Cigarette and Tobacco Products Tax (R&T 30001 30481) (STD Excise)
- h. Alcoholic Beverage Tax (R&T 32001 32556) (STD Excise)
- i. Energy Resources Surcharge (R&T 40001 40216) (STD Excise)
- i Emergency Telephone Users Surcharge (R&T 41001 41176) (STD Excise)
- k. Propane Safety Inspection and Enforcement Program Surcharge (R&T 42000 et seq.; Public Utilities 4451 4461) (STD Fuel)
- 1. Hazardous Substances Tax (R&T 43001 43651; misc. Health & Safety) (STD Env.Fees)
- m. Childhood Lead Poisoning Prevention Fee (R&T 43001 43651; Health & Safety 372 372.7) (STD Fuel)
- n. Occupational Lead Poisoning Prevention Fee (R&T 43001 43651; Health & Safety 429.11 429.15) (STD Env. Fees)
- o. Integrated Waste Management Fee (formerly known as the Solid Waste Disposal Site Cleanup and Maintenance Fee) (R&T 45001 45984; Public Resources 48000 48008) (STD Excise)
- p. Oil Spill Response, Prevention, and Administration Fees (R&T 46001 46751; Public Resources 8750 8760; Govt. 8670.40 8670.48) (STD Fuel)
- q. Underground Storage Tank Maintenance Fee (R&T 50101 50161; Govt. 25299.10 25299.51) (STD Fuel)
- r. Oil Recycling Enhancement Fee (R&T 55001 55381; Public Resources 48600 48691) (STD Excise)
- s. Diesel Fuel Tax (R&T 60001 60630) (STD Fuel)
- t. Hazardous Spill Prevention Fee (Public Utilities 7713 7718) (STD Env. Fees)
- u. Tire Recycling Fee (Public Resources 42860 42895; Goyt. 66799.140 66799.142) (STD Excise)

These laws are the subject matter of this manual and are those with which the compliance staff is mainly concerned. Each employee must have sufficient legal knowledge to enable him or her to perform his or her duties in an efficient and effective manner. This manual contains working information which will assist employees in equitable and uniform administration of the laws.

The Board contracts with counties and cities to collect the tax due under the Bradley–Burns Uniform Local Sales and Use Tax Law. This tax is reported and paid on the same returns used for the state sales and use tax.

The Board also contracts to collect tax for districts authorized by law to impose a transactions and use tax. This is also reported and paid on the same returns used for state sales and use tax.

See CPPM Section 110.000 for a description of each program.

BUSINESS TAXES 105.030

Business taxes is composed of the Sales and Use Tax Department (SUTD) and the Special Taxes Department (STD) which are the largest departments of the Board. For public convenience and efficient administration, the four equalization districts are divided into 15 administrative districts, each under the direction of a district administrator who reports directly to the Chief of Field Operations. Each district administrator oversees the operation of the district and its branch offices (See CPPM Subsection 105.031).

The Out-of-State District, in the charge of a district administrator, is located in Sacramento, making a total of 16 administrative districts. The Out-of-State District has branch offices in New York City, Chicago and Houston to service accounts which do business in California or incur tax liability in this state but are headquartered outside this State (See CPPM Subsection 105.032).

The staff of these 16 administrative districts are primarily responsible for the sales and use tax program. Special Taxes Department staff is headquartered in Sacramento and includes Excise Taxes, Environmental Fees, and Fuel Taxes Divisions and are responsible for all remaining programs except property taxes, but are occasionally assisted by the district offices.

The Sales and Use Tax and the Special Taxes Departments are divided functionally into compliance and audit activities. The mission of the auditing staff is to audit the records of taxpayers to determine the accuracy of the self-assessed tax and recommend, when necessary, amounts to be assessed or refunded. The compliance function is detailed in later sections.

MAP OF THE BOARD OF EQUALIZATION DISTRICTS



DISTRICT AND BRANCH OFFICES AND GEOGRAPHIC DESIGNATORS

105.032

EQUALIZATION DISTRICT	OFFICE	RANCI	HOFFICES & GEOGRAPHIC DESIGNATORS	
III & IV	AA Norwalk			
III & IV	AB Torrance			
II & IV	AC Van Nuys			
III & IV II	AP Industry AR Ventura		ARD No Office (formerly Arroyo Grande)	
11	AK ventura	ARH	ARD No Office (formerly Arroyo Grande) Bakersfield	
		AKII	ARJ No Office (formerly Bishop, Inyo County DHE)	
			ARK No Office (Lancaster, Palmdale, LA County 98 & 99)	
III & IV	AS Culver City		Titel 110 Office (Eurodotei, Furnidate, Eri Coding 70 & 77)	'
I	BH San Francisco		BHA No Office (formerly San Mateo)	
_	CH Oakland		CHA No Office (formerly Union City)	
		CHB	Concord	
II	DH Fresno		DHD No Office (formerly Visalia)	
			DHF No Office (formerly Merced)	
		DHH	Stockton	
			DHK No Office (formerly Sonora)	
			DHM No Office (formerly Mono County DHE)	
			DHJ No Office (fomerly Modesto)	
III	EA Santa Ana	EAA	Laguna Hills	
II & III	EH Riverside	EHC	Rancho Mirage	
III	FH San Diego	FHA	Satellite (formerly El Centro)	
T	CII Can Iana	FHB	San Marcos	
I	GH San Jose	GHC	Salinas GHD No Office (formerly Sente Cryz)	
I	JH Santa Rosa	JHB	GHD No Office (formerly Santa Cruz) Eureka	
1	JII Sama Kosa	JIID	JHA No Office (formerly Crescent City)	
			JHD No Office (formerly San Rafael)	
			JHE No Office (formerly Ukiah)	
		JHF	Suisun City	
		JHH	Redding	
			JHG No Office (formerly Yreka)	
			JHJ No Office (formerly Susanville)	
II	KH Sacramento		KHA No Office (formerly Auburn)	
			KHB No Office (formerly Chico)	
			KHC No Office (formerly Modesto)	
			KHD No Office (formerly Marysville)	
			KHG No Office (formerly Grass Valley)	
			KHJ No Office (formerly Placerville)	
			KHK No Office (formerly Quincy)	
	OH Out of State	OIIA	KHL No Office (formerly South Lake Tahoe)	
	OH Out-of-State	OHA OHB	Chicago New York	
		ОНВ	Houston	
		OHC	110030011	

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BUSINESS TAXES LAWS ADMINISTERED

110.000

BUSINESS TAX LAWS 110.005

The next sections of the manual outline the fundamentals of the tax laws administered by the Sales and Use Tax and Special Taxes Departments. Only the basics of each law are mentioned. Refer to the Business Taxes Law Guide or contact the appropriate special taxes division for specific applications of tax or fees.

All future references to the terms "tax(es)" and "taxpayer(s)" should be interpreted to include "fee(s)" and "feepayer(s)" where applicable.

SALES AND USE TAX 110.010

The sales tax is imposed on retailers for the privilege of selling tangible personal property at retail. It is measured by gross receipts from retail sales. "Gross Receipts" and "Sales Price" mean the total amount of the sales price including all receipts, cash receipts, cash credits and property of any kind or nature.

The use tax is imposed upon the storage, use or other consumption in this state of tangible personal property purchased from a retailer. Generally, the use tax, rather than the sales tax, applies when the property purchased is delivered to the purchaser at a point outside this state for use in California or is shipped or delivered from an out-of-state point to a California consumer. The use tax is measured by the sales (purchase) price of the property. The rates are the same for both taxes.

The use tax is not imposed when the sale of the property to the consumer is subject to the sales tax.

BRADLEY-BURNS UNIFORM LOCAL SALES AND USE TAX

110.015

This law authorizes counties to impose a sales and use tax at the rate of one and one-quarter percent of the selling price of tangible personal property sold at retail in the county, or purchased outside the county for use within the county, unless the sale is subject to a local tax under a Uniform Local Sales and Use Tax Law ordinance in the county of purchase. Each county desiring to have a local tax must contract with the Board for administration. The provisions of the ordinance required to be passed by the county must conform to the provisions of the State Sales and Use Tax Law. There are a few additional exemptions in the local tax law.

This law authorizes each city in a county, which adopts an ordinance under the Bradley–Burns Law, to levy a state-administered city tax with the same base and a rate of one percent or less which would be credited against the county tax.

This law also authorized a redevelopment agency of any city to levy a state-administered redevelopment agency tax at a rate of one percent or less to be credited against the city tax, provided the city ordinance includes a provision for the credit. Effective January 1, 1994, legislation was enacted which provides that no new redevelopment agencies may be implemented.

COUNTY PUBLIC TRANSPORTATION FUND

110.020

The one and one-quarter percent local tax includes one-quarter percent separately funded to the County Public Transportation Account. For reporting and accounting purposes, the ½ percent is included with the state tax on the tax return.

TRANSACTIONS (SALES) AND USE TAX

110.025

This law authorizes districts to adopt an ordinance which imposes a transactions (sales) and use tax. Tax rates may be in ½ percent increments but the total rate of all districts in a locality may not exceed one and one-half percent of the selling price of tangible personal property sold at retail in the locality, or purchased outside the locality for use within the locality (unless the sale is subject to a transactions (sales) and use tax at the place of purchase). Each district desiring to have a transactions (sales) and use tax must contract with the Board to administer the Transactions and Use Tax Law.

MOTOR VEHICLE FUEL LICENSE TAX

110.030

A license tax is imposed for the privilege of distributing motor vehicle fuel (gasoline, etc.). See the chart in CPPM Subsection 110.037 for the current rate for each gallon of fuel distributed. All fuel refined, manufactured, produced, blended or compounded in this state, or imported into this state and no longer in the possession of the distributor, is presumed under the law to have been distributed.

Persons who have paid the license tax, either directly or to a vendor, shall be reimbursed the amount of the tax paid if the fuel was used in an exempt manner under Section 8101 through 8101.7 of the Revenue and Taxation Code. To receive this reimbursement, the claimant must file a claim with the State Controller.

Aircraft jet fuel dealers who make taxable sales or taxable use of aircraft jet fuel must be registered and pay two cents (\$0.02) license tax for each gallon of aircraft jet fuel used or sold. For information on exempt sales or use, refer to Section 7374 of the Motor Vehicle Fuel License Tax Law.

DIESEL FUEL TAX 110.033

The Diesel Fuel Tax is imposed upon suppliers (refiners, position holders, enterers and blenders). The tax applies to the removal of diesel fuel from a terminal or a refinery at the rack, the entry of diesel fuel into this state if not by bulk transfer, and the removal or sale of previously untaxed blended fuel by the blender. Diesel fuel is dyed for exempt off-highway use.

USE FUEL TAX 110.035

An excise tax is imposed on alternative fuels (liquefied petroleum gases (LPG), liquid natural gas (LNG), compressed natural gas (CNG), alcohol fuels, kerosene, and distillate) used to propel a motor vehicle on highways except fuel that is subject to the tax imposed by Part 2 or Part 31 of the Revenue and Taxation Code (gasoline or diesel tax). The tax is imposed upon the user of the fuel. Any vendor who sells and delivers the fuel into a vehicle's fuel tank shall, at the time of sale, collect the tax from the user. The vendor then becomes liable for the tax. See the chart in CPPM Subsection 110.037 for the current rate for each gallon of fuel.

The user must file a return and account for his or her fuel sales and usage even though he or she has paid all of the tax to the vendor and has no liability. A user of fuel cannot claim a deduction for tax paid to a vendor unless he or she has actually paid the bill.

Exempted from the tax is any fuel used to propel an implement of husbandry, truck or tractor used in agricultural operations and operated only incidentally upon the highways. A partial exemption applies to use fuel used in pupil transportation or local transit passenger carrier services by the entities described in Section 8655 of the Use Fuel Tax Law. Fuel usage which qualifies for the partial exemption is subject to a tax of one cent per gallon.

Users of fuel who own or operate vehicles propelled by LPG, LNG or CNG have the option of paying the applicable unitary use fuel tax directly to the vendor, or to the state if the user has bulk storage, or paying an annual flat rate fuel tax to this Board. Payment of the annual flat rate tax entitles the user to purchase LPG, LNG or CNG without payment of the unitary use fuel tax to the vendor or state, regardless of the type of conversion system installed on the vehicle.

Additionally, some users are exempt from obtaining permits and filing returns (see Subsection 920.090), or may obtain a four day use fuel tax permit (see CPPM Chapter 2).

FUEL TAX ENFORCEMENT

110.036

A sound enforcement program is essential to effective diesel or use fuel tax administration. Since such a program results in the apprehension of those who have not complied with permit or license requirements, it helps protect the tax base and ensure that those who comply with the law do not suffer a competitive disadvantage.

Special Taxes' enhanced truck stop program is a major means of enforcing the Diesel Fuel Tax. (See CPPM Subsection 110.033) The program encourages voluntary compliance and deters tax evasion attempts to import untaxed diesel fuel into California for delivery to a wholesaler or retailer or by unregistered interstate truckers using untaxed fuel on the highways. A truck check is also a valuable tool for collecting liabilities and clearing delinquencies under all Board programs. Furthermore, examination of bills of lading provides leads to sales and use tax evasion and to sales of contraband cigarette and tobacco products or untaxed alcoholic beverages.

Under the enhanced truck stop program, tax representatives will be stationed at permanent and temporary truck stops set up by the CHP and their hours will be expanded. In addition to registration, reinstatement, and routine collection duties, these BTR's duties include seizure, sale, and assessment of criminal penalties.

FUEL TAX RATES 110.037

Effective Date and Rate (per gallon)			
<u>Fuel</u>	<u>1-1-92</u>	<u>1-1-93</u>	<u>1-1-94</u>
Gasoline	\$ 0.16	\$ 0.17	\$ 0.18
Alcohol	\$ 0.08	\$ 0.085	\$ 0.09
LNG & LPG	\$ 0.06	\$ 0.06	\$ 0.06
CNG	\$ 0.07	\$ 0.07	\$ 0.07
Diesel	\$ 0.16	\$ 0.17	\$ 0.18

TAX ON INSURERS 110.038

The insurance tax is levied against insurance companies in lieu of all other taxes except license fees and real estate taxes. The tax is based on the gross amount of premiums for insurance sold in California or, in the case of ocean marine insurance, on underwriting profits.

CIGARETTE AND TOBACCO PRODUCTS TAX

110.040

A tax for each cigarette is imposed upon cigarette distributors. A distributor is a person who sells cigarettes upon which the tax liability has not yet accrued. The tax is prepaid by the distributor through the use of stamps, which must be affixed to each pack of cigarettes before its distribution. The Bank of America holds the current contract to supply stamps to the distributors.

Effective January 1, 1989, a tax is imposed upon distributors of tobacco products, based on the wholesale cost of the products, at a rate determined annually. If you need the current rates or have other questions, contact the Excise Taxes Division.

ALCOHOLIC BEVERAGE TAX

110.045

The tax imposed upon beer, wine, and distilled spirits varies with the type of beverage and alcoholic content. Issuance of a license to any manufacturer, wine grower, distilled spirits manufacturer's agent, rectifier, wine rectifier, wholesaler, importer, or customs broker or industrial alcohol dealer by the Department of Alcoholic Beverage Control (ABC) constitutes registration with the Board insofar as the Alcoholic Beverage Tax Law requirements are concerned.

ABC furnishes the Board with a notice that a license has been applied for requiring a supporting surety bond. The Excise Taxes Division then requests a bond or other acceptable security in the required amount. The ABC also notifies the Board of surrenders or transfers.

ENERGY RESOURCES SURCHARGE

110.046

The Energy Resources Surcharge is imposed on the consumption of electrical energy. The surcharge is collected by the electric utilities from the consumers or paid directly by public institutions, water districts and irrigation districts who have purchased energy from the federal government.

EMERGENCY TELEPHONE USERS SURCHARGE

110.047

The Emergency Telephone (9-1-1) Users Surcharge is imposed on the charges for intrastate telecommunication services. The surcharge is collected by the telephone service supplier from the service user with the bill for telephone service.

PROPANE SAFETY INSPECTION AND ENFORCEMENT PROGRAM SURCHARGE 110.048

The Propane Safety Inspection and Enforcement Program Surcharge is imposed upon operators of propane distribution systems.

HAZARDOUS SUBSTANCES TAX

110.050

DISPOSAL FEE

The Disposal Fee is imposed on persons who dispose of or submit for disposal hazardous waste in California. The fee is reported on a quarterly or semiannual basis and is based upon tons of waste disposed.

GENERATOR FEE

The Generator Fee is imposed upon persons who generate hazardous waste in California and it applies to persons who generate certain types of hazardous waste outside this state where the waste is shipped into California. The Generator Fee is a site-specific fee. It is based upon the amount of waste generated at a specific generating site and is reported on a yearly basis.

The Waste Reporting Surcharge is a surcharge to the Generator Fee.

FACILITY FEE

The Facility Fee is imposed on persons who have been issued a Hazardous Waste Facility Permit or who have been granted interim status to operate a hazardous waste facility. Facility permits are required of persons who treat or store hazardous waste, or dispose of hazardous waste on site. The fee is reported on an annual basis, with a prepayment of 50%.

ACTIVITY FEE

The Activity Fee is imposed on persons who have required a regulating activity from the California Department of Toxic Substances Control (DTSC). The fees are based upon the type of activity i.e., applications for variance, application for permit, waste classification, preliminary endangerment assessment. The fee is billed based upon information provided to the Board by the DTSC.

HAZARDOUS SUBSTANCES TAX

(CONT.) 110.050

ENVIRONMENTAL FEE

The Environmental Fee is imposed upon all corporations who operate in an industry that uses, generates, stores, or conducts activities related to hazardous materials. The fee is based upon the number of employees employed in California and is reported on an annual basis.

In addition, the Occupational Lead Poisoning Prevention and the Childhood Lead Poisoning Prevention fees are administered under provisions of the Hazardous Substances Tax but are separately imposed. (See CPPM Subsections 100.052–100.053)

HAZARDOUS SPILL PREVENTION FEE

110.051

The Hazardous Spill Prevention Fee is imposed annually on motor carriers and railroads which are registered with the California Department of Toxic Substances Control or with the California Highway Patrol to transport hazardous materials or wastes on California highways and railroad lines.

OCCUPATIONAL LEAD POISONING PREVENTION FEE

110.052

The Occupational Lead Poisoning Prevention Fee is imposed on persons who operate in industries identified as having a potential for causing occupational lead poisoning. The fee is reported on an annual basis.

CHILDHOOD LEAD POISONING PREVENTION FEE

110.053

The Childhood Lead Poisoning Prevention Fee is imposed on distributors of motor vehicle fuel, distributors of architectural coatings, and on facilities releasing lead into the ambient air. The fees are due annually.

UNDERGROUND STORAGE TANK MAINTENANCE FEE

110.054

The Underground Storage Tank Maintenance Fee is imposed upon underground storage tank owners. The fee is reported on a quarterly basis and the rate per gallon of fuel placed into the underground tank is:

\$0.006	Effective January 1, 1991
\$0.007	Effective January 1, 1995
\$0.009	Effective January 1, 1996
\$0.012	Effective January 1, 1997

INTEGRATED WASTE MANAGEMENT FEE

110.055

A fee is imposed upon solid waste disposal facility operators such as municipal and private landfill operators. The fee is based on tons of solid waste disposed and is reported on a quarterly basis. The annual fee which had the same base was repealed effective January 1, 1994.

These fees were formerly known as the "Solid Waste Disposal Site Cleanup and Maintenance Fee".

MOORE UNIVERSAL TELEPHONE SERVICE ACT

110.060

This tax was administered by the Board until July 16, 1987, when it was repealed. Currently, the Board is handling only accounts which have notices of determination that are in petition or legal suspension status, or have final outstanding accounts receivables.

TIRE RECYCLING FEE 110.065

The Tire Recycling Fee is imposed upon every person who leaves tires for disposal with a seller of tires. The fee is set at 25 cents per tire. The seller is required to collect the 25 cents and remit it on a quarterly basis. The seller is allowed to retain ten per cent of the fee for reimbursement of related collection costs.

OIL SPILL RESPONSE, PREVENTION, AND ADMINISTRATION FEES

110.070

OIL SPILL RESPONSE FEE

Every operator of a refinery must pay a fee for each barrel of crude oil received at a refinery within the state. Every owner of petroleum products must pay a fee for each barrel of petroleum products received at a marine terminal from outside this state. The fee is collected by the marine terminal operator from the owner of the petroleum products. Every operator of a pipeline must pay a fee for each barrel of petroleum products transported into this state by means of a pipeline operating across, under or through marine waters of this state. The size of this fund is to be maintained at a specified level. Any amount over this level will be refunded to the feepayers. Collection of the fee is suspended whenever sufficient funding exists.

OIL SPILL PREVENTION AND ADMINISTRATION FEE

Every owner of crude oil or petroleum products must pay a fee for each barrel of crude oil received at a marine terminal from within or outside the state and for every barrel of petroleum products received from outside the state. The fee is collected by the marine terminal operator from the owner of the crude oil or petroleum products. Every operator of a pipeline shall pay a fee for each barrel of crude oil originating from a production facility in marine waters and transported in this state by means of a pipeline operating across, under or through marine waters of this state.

OIL RECYCLING ENHANCEMENT FEE

110.080

Every oil manufacturer who sells, transfers or imports for use in this state, lubricating or industrial oil, must report to the Board the gallons of lubricating or industrial oil sold, transferred or used within this state. Every oil manufacturer must pay a fee of sixteen (16) cents for each gallon of lubricating oil sold, transferred or used within this state. "Oil Manufacturer" means the first person or entity in the State to take title to lubricating or industrial oil for sale, use or transfer in the State.

These fees are commonly known as the Oil Recycling Fee.

COMPLIANCE RESPONSIBILITIES AND FUNCTIONS

120,000

COMPLIANCE RESPONSIBILITIES

120.010

The compliance staff is responsible for enforcing the provisions of the various business tax laws and regulations administered by the Board of Equalization equitably and uniformly; ensuring that persons engaged in business in this state comply with the laws and informing them of any violations; licensing those required to report and pay business taxes; and making certain that taxes are reported correctly and paid timely.

COMPLIANCE FUNCTIONS

120.020

In executing its delegated responsibilities, the compliance staff performs the following functions:

- a. <u>REGISTRATION</u>: Registration identifies the correct legal ownership required to report and pay any business taxes to the Board. After identification, there is a standard procedure for registering accounts correctly and maintaining an accurate record for each active account.
- b. <u>SECURITY</u>: The compliance staff must ascertain the size and scope of the proposed business, the manner in which it will operate and the financial stability and integrity of those persons responsible for the operation. The staff member must follow standard procedures for obtaining deposits in proper form; making adjustments of security when warranted; recommending refunds of deposits; applying deposits to clear tax liability; and establishing and maintaining security deposit files.
- c. <u>RETURNS</u>: The compliance staff advises and educates taxpayers to prepare tax returns properly. The staff members must recognize and investigate irregularities in reporting and maintain adequate delinquent controls.
- d. <u>CLOSE OUTS</u>: The compliance staff examines the books, records, and returns of an account closing out in order to determine which of the following actions should be taken:
 - 1. Recommend an audit by the Board's auditing staff.
 - 2. Prepare a field billing order to establish additional tax liability disclosed by investigation when an audit is not warranted.
 - The compliance staff also clears delinquencies, makes demands on escrows, prepares escrow withholds, issues escrow clearances and highway tax clearances on motor vehicles subject to the use fuel tax.
- e. <u>REVOCATIONS</u>: The compliance staff enforces the provisions of the business tax laws pertaining to revoked accounts; reinstates licenses or permits of taxpayers who have complied with the laws, obtains evidence and prepares cases for prosecution of taxpayers who continue to operate after revocation; and seizes and impounds vehicles operated in violation of the law.
- f. <u>COLLECTIONS</u>: To effect the collection of delinquent taxes, the compliance staff maintains adequate controls of accounts receivable at both the district and Headquarters levels; prepares and serves withhold notices; initiates and prepares warrants; requests recordation of certificates of lien; requests releases, partial releases and subordination of liens; seizes and sells motor vehicles under the Use Fuel and Diesel Fuel Tax Laws; seizes and sells liquor licenses to clear delinquent sales and use taxes; locates assets, including real property, on which to levy; and makes recommendations for revocation of licenses or permits for failure to pay delinquent tax liability.
- g. <u>ADVISORY SERVICES AND PUBLIC RELATIONS</u>: A principal objective of the Sales and Use Tax and Special Taxes Departments is to ensure that taxpayers report and pay the correct amount of tax. The compliance staff assists taxpayers in preparing tax returns and advises them of the correct application of the laws and regulations. A sincere and helpful attitude by each member of the compliance staff is of paramount importance in maintaining good public relations.

ADVICE TO TAXPAYERS 120.030

The importance of giving complete and correct advice to taxpayers cannot be over emphasized. Incomplete information or misinformation given a taxpayer by a Board employee has a disastrous effect upon good public relations. In addition, the taxpayer may be relieved of tax, interest, or penalty when failure to report or pay is due to reliance on written advice from the Board (see CPPM Subsection 150.040).

The compliance employee must be sure that an answer is correct. All of the facts must be carefully examined before a conclusion is reached. Snap answers, or answers based upon incomplete information, are inexcusable. Also, it is never appropriate for a Board employee to offer any legal advice, other than interpretation of the tax laws administered by the Board.

Any officially published regulation or informational release intended for public distribution of the Board may be furnished to the taxpayer. Business Taxes General Bulletins which may be released to the public are marked with the symbol (PR) immediately following the bulletin number. Bulletins issued prior to December 30, 1963, which are published in the Business Taxes Law Guide, may also be distributed. Operations Memos have a confidential status notation under the title, "OPERATIONS MEMO".

Questions pertaining to other agencies or to the laws they administer should be referred to that agency.

VERBAL INQUIRIES

For verbal inquires, if there is any doubt as to the correct answer, the person should be requested to present the problem in writing stating all of the facts, or the matter should be referred to the next level of supervision. Furthermore, Board staff is to encourage taxpayers to write regarding specific tax questions. Taxpayers who verbally request tax information are to be advised that, although an answer to their question is being provided, they may also wish to put their question in writing so that they may receive a written response for their records (see CPPM 150.000).

Whenever advice is given over the telephone to identified taxpayers, Form BT-11 (Report of Telephone Call), should be prepared stating the problem, the answer given and any regulations furnished. This is particularly true when such advice pertains to specific exemptions. District administrators and Headquarters supervisors are requested to establish a review mechanism to ensure that BT-11's are being used and to review the forms for completeness and accuracy prior to filing the form in the taxpayer's file. The use of such forms should be periodically re-emphasized.

STANDARDS OF CONDUCT

130,000

CONDUCT ON THE JOB 130.010

This manual does not belabor the obvious by listing the commonly understood and universally acceptable rules of business etiquette. It is sufficient to point out that the compliance representative is a businessman or businesswoman on the staff of a multi-billion dollar firm and acts as such. The compliance employee must remember that he or she represents the State of California and the Board of Equalization and at no time does the position carry with it the authority to be argumentative or offensive. While it is rare, there have been occasions where compliance representatives have been offered or have solicited bribes. Allegations or suspicions of this nature are to be immediately reported to the your supervisor and the Internal Audit Office (IAO). Some specific rules of conduct about the nature of the compliance function itself are set forth below.

USE OF BUSINESS CARDS

130.020

Business cards are issued to compliance representatives for their convenience and to help introduce themselves to the public in a businesslike manner.

Business cards do not replace, nor should they be used as a substitute for the identification card, Form GA–1102, which has a photograph and the authorized signature of the representative.

IDENTIFICATION CARDS

130.025

The identification card is to be used for verification of authorization to conduct business of the Board of Equalization. The identification card, Form GA–1102, must be kept in a secure manner so as to prevent loss and possible misuse by an unauthorized person. See BEAM Sections 2940 through 2945 for procedure to follow when identification card is damaged, lost, or employee issued an identification card is separated from the Board.

CONFIDENTIAL BOARD RECORDS

130.030

The Government Code and most of the business tax laws contain provisions making it illegal to divulge to any unauthorized persons information regarding a taxpayer's affairs obtained through investigation or from returns or reports. Such information must be treated in strict confidence. The Governor may, by general or special order, authorize the examination of records maintained by the Board by other state officers, tax officers of another state, by the Federal Government if reciprocal agreement exists, or by any other person.

If directly interested, successors, receivers, trustees, executors, administrators, assignees and guarantors may be given information regarding unpaid tax liability of a predecessor.

Except as provided under the various codes, if so requested, the Board must identify the source of information. See CPPM Subsection 135.074 and the Information Procedures Handbook, Pamphlet No. 58.

SALES TAX

Section 7056 of the Revenue and Taxation Code excludes the information appearing on sales and use tax permits from provisions prohibiting the Board and its employees from divulging information on sales and use tax accounts. This section does not preclude our furnishing the type of information customarily supplied to the public from registration records (see CPPM Subsection 135.074).

Sales tax permits do not show all information contained in the registration record. The content of permit forms is set forth in Chapter II which gives procedural instructions rather than regulations or statutory requirements. The entries are governed principally by practical limitations of form design, processing time, etc., and not by restrictions on the type of information displayed in the permit. The Board does, however, provide private sector requesters with 3" x 5" card printouts and other information giving more details than shown by permit forms (see CPPM Subsection 135.074).

In some instances, copies of a composite example also have been furnished explaining the identification and location of data on sales tax registration records in general terms. The example does not, however, give the detailed meanings of all code numbers and letters used.

Upon review with the legal staff, it was concluded that the furnishing of information indicated does not violate Section 7056, since the descriptions of code items provided do not reveal anything concerning the affairs of any particular permittee.

Regarding a closed-out account, the legal staff has consistently taken the position that the closed-out status and the date of the close out of an account are not confidential. The mailing address of an account may also be given out, since this information appears on the face of the seller's permit.

SPECIAL TAXES

The provisions governing the release of taxpayer information vary among the special tax programs and in some cases are much more restrictive. For example, under the Hazardous Substances Tax, we can not disclose whether or not a person is registered. Therefore, requests for the release of special taxes feepayer information should be referred to the appropriate special taxes division

VERIFICATION OF RESALE CERTIFICATES AND PERMITS

130.041

The Board has an obligation to assist taxpayers in verifying the validity of resale certificates. The responsibility for answering these inquires is primarily that of the districts. Sellers seeking to verify resale certificates should provide the district with the name of the business, its location, and the purchaser's seller's permit account number. With this information, the district can then verify and inform the seller whether the account is active or closed out. In the absence of providing this information, the inquiry should be considered a searching service request and forwarded to the Headquarters Account Reference Section (see below).

If a district receives a long list of accounts for which resale certificates are to be verified, the district should refer the list to the Headquarters Account Reference Section for verification. The verified information will then be mailed directly to the requesting seller unless otherwise instructed by the district.

Districts also may assist purchasers in verifying that persons with whom they are dealing have the required permits to collect California sales and use taxes. When the requester cannot provide the district with the sales tax permit number, the request should generally be considered a <u>searching service</u> request.

SEARCHING SERVICE 130.042

Alphabetical searching service is furnished only by the Headquarters Account Reference Section. No charge is made for verification of resale certificates and permits. The fee for other requests, such as those received from attorneys and collection agencies, is \$1.75 per name searched. These customers are billed quarterly.

The Account Reference Section's searching service may disclose the following information without regard to the type of ownership of the business: Owner's name (including "et al" names but excluding a.k.a.'s and limited partners as they don't appear on the permit), firm name (dba), business address, mailing address (if different from business address), account number, business code, starting date, whether account is active or closed and, if closed, the closing date.

If a video printout of Registration 1 (RG1) is used to supply the requested information, all entries below city and state will be deleted (see CPPM Subsection 130.040).

INTERDISTRICT COOPERATION

130.050

All compliance employees, regardless of where they may be located, are working for the same organization. It is immaterial where an assignment originates or in what area a taxpayer incurred the tax liability. The responsibility for doing a conscientious job is not limited by district boundaries. Even though the assignment originated in another district, there will be no difference in the way the case is worked or in the amount of effort expended. Refer to CPPM Section 721.000 for detailed information in interdistrict assignments.

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LEGAL CASES — EMPLOYEE RESPONSIBILITY

135.000

SIGNATURE OF EMPLOYEE ON DOCUMENTS

135.010

Employees will not sign stipulations, agreements or other documents authorized by the taxpayer or his or her representatives. Board forms, or facsimiles of forms, will be used. See also CPPM Subsection 505.080, Preparation of Tax Returns by Board Employee.

CONFLICT OF INTEREST — SHERIFF'S OR MARSHAL'S SALES

135.020

To avoid any question of conflict of interest, no Board employee, member of the employee's family or any other relative should purchase or attempt to purchase any asset being offered for sale pursuant to a marshal's or sheriff's seizure and sale held to satisfy delinquent taxes administered by the Board. Likewise, no individual should bid on behalf of a Board employee or his or her family.

The above does not prohibit a designated employee entering a protective bid on a motor vehicle on behalf of the Attorney General's Office as provided for in CPPM Subsection 742.060.

CONTACT BY TAXPAYERS IN ATTORNEY GENERAL CASES

135.030

Occasionally a taxpayer (or his or her representative) involved in a court case in which the Board is a party will ask a Board employee for information regarding the case. In such an event, he or she should be told to contact the Deputy Attorney General representing the Board in the litigation. To avoid the possibility of adversely affecting the outcome of the litigation, no information should be given unless authorized by the Deputy Attorney General involved.

SERVICE OF LEGAL PROCESS

135.040

- I. Summons and complaints, restraining orders, orders to show cause, and similar legal process directed to the State Board of Equalization.
 - A. Authorized Methods of Service.
 - 1. A summons and complaint in an action against the Board may be served:
 - a. By personal delivery of a copy to the Chairman of the Board, Executive Director, or Acting Executive Director. Service is complete at the time of delivery.
 - b. By mailing a copy to the Chairman of the Board, Executive Director, or Acting Executive Director, together with two copies of a notice and acknowledgement form and a return envelope, postage prepaid, addressed to the sender. Service is complete on the date the acknowledgement of receipt is executed by the Chairman of the Board, Executive Director, or Acting Executive Director. If the acknowledgement form is not completed and returned within 20 days after the copy of the summons and complaint is mailed, the party to whom it was mailed is liable for reasonable expense thereafter incurred in serving or attempting to serve by another authorized method.
 - c. By leaving a copy in the office of the Chairman of the Board, Executive Director, or Acting Executive Director. The copy must be left during usual office hours with "a person who is apparently in charge of the office". This will include a secretary of the person to be served. Thereafter, a copy must be mailed to the person to be served. Service is complete on the 10th day after such mailing.

(CONT. 1) 135.040

- 2. A restraining order, an order to show cause, etc., directed to the Board, may be served:
 - a. By personal delivery of a copy to the Chairman of the Board, Executive Director, or Acting Executive Director, or our attorney of record in the action.
 - b. By mailing a copy to the Chairman of the Board, Executive Director, or Acting Executive Director, or our attorney of record in the action with postage prepaid, addressed to the person to be served at his or her office address. Service is complete at the time of mailing.
 - c. By leaving a copy in the office of the Chairman of the Board, Executive Director, Acting Executive Director, or our attorney of record in the action. The copy is to be left during usual office hours with "a person who is apparently in charge of the office". This will include a secretary of the person to be served.

B. Procedure When Served.

- 1. Whenever a copy of a summons and complaint, restraining order, order to show cause, etc., directed against the Board is served by personal delivery or by mail, properly or improperly, it should be sent immediately to the Chief Counsel, unless it is improperly served by personal delivery and returned to the server as specified below. No written acknowledgement should be made to the server prior to review by the Chief Counsel.
- 2. If an attempt is made to personally serve a person other than the Chairman of the Board, Executive Director, or Acting Executive Director, with a copy of a summons and complaint, restraining order to show cause, etc., directed against the Board, the server should be told that the Chairman of the Board or, preferably, the Executive Director, must be served. The copy should be returned to the server unless he or she insists on leaving it. If the person served is individually named as defendant, he or she must accept service insofar as he or she personally is concerned, but this service is not binding on the Board. Under these circumstances, however, he or she or his or her supervisor should send the copy served to the Chief Counsel immediately.

II. Subpoenas and Subpoenas Duces Tecum

A. Authorized Methods of Service.

The service of a subpoena is made by showing the original and delivering a copy to the witness personally including, in the case of a subpoena duces tecum, a copy of the affidavit upon which the subpoena was issued. The service must be made so as to allow the witness a reasonable time for preparation or travel to the place of attendance.

A subpoena duces tecum, to be effective to require production of Board records, should be directed to and served upon the Executive Director or Acting Executive Director.

B. Procedure When Served.

If a subpoena is directed to the Board, an individual Member thereof, or the Executive Director and is served on an employee, the person so served is not required to appear in obedience to the subpoena. The service is of no effect inasmuch as the subpoena is not directed to him/her. The employee should so inform the server.

If the subpoena is directed to a particular employee of the Board and he or she is served, he or she is required to appear in obedience to the subpoena but is not authorized or required to produce any Board records even though it be a subpoena duces tecum. The employee should inform the server that to require production of Board records, a subpoena duces tecum should be directed to and served upon the Executive Director since he or she is the custodian of the records.

SERVICE OF LEGAL PROCESS

(CONT. 2) 135.040

By order of the Governor, Board employees are authorized to testify under specified circumstances concerning their own knowledge of sales and use tax records when served with a subpoena directed to the employee personally. When a subpoena has been served upon an employee or when an attempt has been made to serve him/her with a subpoena directed to the Board, an individual Member thereof, or the Executive Director, the employee or his or her supervisor should immediately advise the Chief Counsel, forwarding information as to the nature of the proceeding, the name of the attorney, and the party on whose behalf the subpoena was issued. Further instructions as to procedure will be issued by the Chief Counsel. The Chief of Field Operations should be advised in all cases.

SMALL CLAIMS COURT ACTIONS

135.045

Occasionally, the Board is named as a defendant in action filed in small claims court (a division of a municipal or justice court). Jurisdiction to resolve tax questions rests with the superior courts. The following procedures should be followed by field offices and headquarters units which receive communications from a small claims court concerning an action brought against the Board of Equalization with respect to sales and use and use fuel taxes.

- 1. If the action involves the validity of a determination, auditing errors, claims for refund, etc., the following action should be taken:
 - a. Notify Headquarters Audit Review and Refunds Section immediately by telephone.
 - b. The <u>original</u> correspondence received from the court should be forwarded to Audit Review Section after a copy has been made for the district or unit file.
 - c. The Audit Review and Refunds Section will provide a letter to the court which documents the Board's jurisdictional objections to the action.
 - d. If this letter is not accepted in lieu of a formal appearance on behalf of the Board, the Audit Review and Refunds Section will advise the district administrator or the unit supervisor, who will make arrangements to have someone appear for the Board, since attorneys are not allowed in small claims court actions.
 - e. The Audit Review and Refund Section will provide the person making the appearance with a letter detailing the legal basis for the jurisdictional objections to the action. The letter should be read to the presiding judge.
 - f. The person representing the Board should also be prepared to explain the provisions of the tax law which are applicable in the case at hand.
- 2. If the action involves a matter other than those shown above (e.g., reimbursement for accounting fees, claim for damages, etc.) the Collection Section (ATSS 485–1122, Public Number (916) 445–1122) should be substituted for the Headquarters Audit Review and Refunds Section in steps a. though f. shown above.
- 3. All actions involving special taxes programs should immediately be referred to the appropriate division which will perform the above functions.

EXAMINING RECORDS — AUTHORITY FOR

135.050

Section 15618 of the Government Code confers the authority upon the members of the staff of the Board to examine records as follows: "The Board may examine, as a Board, individually, or through its staff, the books, accounts, and papers of all persons required to report to it, or having knowledge of the affairs of those required so to report."

Should the authority of the representative to examine records of taxpayers be challenged, the challenger should be referred to the Government Code section or to one of the following code sections:

Sales and Use Tax — Section 7054

Motor Vehicle Fuel License Tax — Section 8253

Use Fuel Tax — Section 9254

Cigarette and Tobacco Products Tax — Sec. 30454

Alcoholic Beverage Tax — Section 32453

Tax on Insurers — no separate provision

Energy Resources Surcharge — Section 40174

Emerg. Telephone Users Surcharge — Sect. 41130

Tire Recycling Fee — no separate provision

Hazardous Substances Tax — Section 43502
Childhood Lead Poisoning/Prev. Fee — Sect. 43502
Occupational Lead Poisoning Prev. Fee — Sect. 43502
Integrated Waste Management Fee — Sect. 45852
Oil Spill Response, Prevention Fee — Sect. 46603
Underground Storage Tank Maint. Fee — Sect. 50153
Oil Recycling Fee — Section 55302
Fee Collection Procedures — Section 55302
Diesel Fuel Tax — Section 60606

For procedure to obtain a subpoena to produce records (subpoena duces tecum), see CPPM Subsection 135.073 and 799.050.

CLAIMS AGAINST PUBLIC EMPLOYEES

135.060

Section 860.2 of the Government Code provides as follows:

"Neither a public entity nor a public employee is liable for an injury caused by:

- a) Instituting any judicial or administrative proceeding or action for or incidental to the assessment or collection of a tax.
- b) An act or omission in the interpretation or application of any law relating to a tax."

This section was added to the code in 1963 as part of Division 3.6 of Title 1, of which Chapter 6 is entitled "Administration of Tax Laws". The Legislative Committee Comment to Section 860 states that:

"This chapter confers immunity upon public employees and public entities for their discretionary acts in the administration of tax laws. It is likely that the courts would confer an immunity for these acts under the general provisions of Section 820.2; but it appears desirable to make the immunity explicit in order to obviate the necessity for test cases to determine whether the discretionary immunity extends this far."

Section 820.2, referred to in the Legislative Committee Comment, provides as follows:

"Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused."

In one court case against a public employee, a discretionary act was defined as one which requires the exercise of judgment or choice.

Good judgment is a prerequisite of a successful compliance person. Any employee who is acting in the course and scope of his or her employment when he or she is engaged in work he or she was employed to perform, or when an act is an incident to this duty and was performed for the benefit of his or her employer and not to serve his or her own purposes or convenience, the employee will be protected from personal liability for acts performed in tax collection.

RIGHT TO FINANCIAL PRIVACY ACT

135.070

When obtaining financial information from banks and other financial institutions, the Board must comply with the requirements of "Governmental Access to Financial Records". These provisions, commencing with Section 7460 of the Government Code, are known as the "California Right to Financial Privacy Act".

The Act covers the records of customers of financial institutions which are defined as including state and national banks, state and federal savings and loan associations, trust companies, industrial loan companies, and state and federal credit unions. Since all phases of operations are covered, the records of customers of the escrow and leasing operations departments of financial institutions are protected, even though the Act does not protect the records of customers of escrow or leasing companies.

There is no prohibition in this Act against Board of Equalization employees requesting a financial institution and that financial institution responding to a request as to whether a person has an account or accounts at that office or branch, and, if so, any identifying numbers of such account or accounts. In addition, Section 7480 of the Act specifically provides for disclosure to the Board of Equalization of:

1) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Parts 1, 2, 3, 13, 14, and 17 of the Revenue and Taxation Code.

[Parts 19, Energy Resources Surcharge; 20, Emergency Telephone Users Surcharge; 22, Hazardous Substances; 23, Integrated Waste Management Fee; 26, Underground Storage Tank Maintenance Fee; 24, Oil Spill Response, Prevention, and Administration Fees; and 30, Oil Recycling Fee are not included in Government Code Section 7480 of the California Right to Financial Privacy Act.]

- 2) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.
- 3) The information required by the following sections of the Revenue and Taxation Code which pertain to the Notice to Withhold and Notice of Levy:

SECTION	LAW
6702, 6703	Sales and Use Tax
8954, 8957	Use Fuel Tax
30313, 30315	Cigarette Tax and Tobacco Products Tax
32383, 32387	Alcoholic Beverage Tax
40153, 40155	Energy Resources Surcharge
41123.5	Emergency Telephone Users Surcharge Tax
43444.2	Hazardous Substances Tax
44144	Moore Universal Telephone Service Act

When serving a Notice of Levy on a bank, finance company, etc., the usual Form BT-425-L is used. However, specialized Form BT-465-B, BT-465-B1, or BT-465-UB is used to serve a Notice to Withhold. If the financial institution is the employer of our taxpayer, Form BT-425-E, Earnings Withholding Order for Taxes, is used (see CPPM Subsections 742.100, 736.070 and 742.105).

LOAN COMPANIES 135.071

The Board's legal staff has completed an in-depth study of industrial loan companies as defined in Financial Code Section 18003. They have determined that all loan companies are not industrial loan companies as had been previously believed and therefore not all should be considered to be financial institutions.

If you are in doubt whether a lender is an industrial loan company, and therefore a financial institution subject to the California Right to Privacy Act, you should call the Department of Corporations, Los Angeles Central Index at (ATSS) 677–2481. They will be able to tell you if the lender is licensed by the state as an industrial loan company. If you have any questions that the Central Index cannot answer, the Sacramento Office of the Department of Corporations can help you. Their telephone number is (ATSS) 485–4986.

Form letter BT-941 may be used when making inquires of loan companies that are not licensed as industrial loan companies.

In summary, any lending company not licensed by the state as an industrial loan company is not considered to be a financial institution and therefore can be approached for any information about their customers that a state employee may require.

Although loan companies not licensed as industrial loan companies are under no legal obligation to give information, a request is not illegal and therefore not subject to the fine (see CPPM Subsection 135.072).

RELEASE OF FINANCIAL INFORMATION —

135.072

FORM BT-869

Except as noted in CPPM Subsection 135.070, employees may not request a financial institution to disclose any information regarding its customers' records unless the customer has authorized the disclosure, and proper procedures are followed. In addition, no employee, may examine or receive copies of, or the information contained in, the financial records of a financial institution without prior authorization of the customer involved. Also, the specific financial records to be reviewed must be described and be consistent with the scope and requirements of the investigation (Government Code, Ch. 20, Section 7473).

The financial institution must also maintain a record of all examinations and disclosures of the financial records of a customer including the identity of the person examining the financial records, the department represented, and a copy of the customer's authorization, subpoena, etc., providing for such examination (Government Code, Ch. 20, Section 7473).

Before attempting to obtain information from a financial institution, Board policy is first to insist that the taxpayer obtain any data or documents which should have been retained in accordance with Section 7053 of the Sales and Use Tax Law.

If all other available avenues of information have been exhausted and approval of the district administrator has been obtained, Form BT–869 (Release of Financial Information) should be used to secure access to the information. Form BT–869 is a four-part multicolored form which sets forth the period to be examined by the Board representative, the identity of financial records to be examined, and the applicable tax law involved. It also informs taxpayers of the expiration date of the authorization and their right to revoke the authorization at any time. Initially, all four copies will be completed to the point of signature of the Board representative. The blue copy will be given to the taxpayer who authorizes the examination. The pink copy will be given to the financial institution who holds the records. The remaining two copies will be retained with the assignment file.

RELEASE OF FINANCIAL INFORMATION —

(CONT.1) 135.072

FORM BT-869 (Cont.)

Preparation of Form BT-869 is self-explanatory, but it must be completed in full detail and be properly executed by all parties involved. The expiration of the authorization normally should be dated no more than 60 days from the date of request of the authorization. The expiration date may exceed 60 days from the date of request of the authorization only when it is felt that more time is needed to examine the financial institution's records.

Every attempt should normally be made to examine and extract the data at the institution and directly from the available records in order to avoid the expense to the institution of making copies or otherwise delivering the information to the Board. Because there is no legal obligation for the institution to provide the information requested under Form BT–869, if the needed information will be costly and time consuming to produce, the institution may condition its production of the data on the Board's payment of the related expenses. If obtaining the data is deemed necessary and unavoidable and in the Board's best interests, reasonable charges will be paid by the Board to secure the required information or documents, even though the Board is not legally bound to pay any such charges. These charges must be borne by the Board since there is no statutory authority for passing them on to the taxpayer. The district administrator has the responsibility for approving any charges which the financial institutions may make for the needed information and/or documents.

After the examination has been completed, the bottom receipt portion of the yellow and white copies must be signed by an official of the financial institution to acknowledge return of the records. The white copy will be retained by the financial institution. The original yellow copy will be retained in the district file of the account. Within 30 days of the examination, the taxpayer must be notified, in writing, that the examination has been completed and that the reason for such examination will be furnished upon written request. An acknowledgment letter (see sample included in this subsection) must be used by the district of control for this purpose and a copy retained in the district file of the account (Government Code, Ch. 20, Section 7473).

Since the expiration of the authorization normally will be 60 days from the date of request, priority must be given to the completion of the examination of the records provided by the financial institution.

Should the taxpayer refuse to authorize the release of information requested, the district administrator will follow the standard Board procedures for administrative subpoena or summons, search warrant or subpoena duces tecum (see Subsection 135.073).

It is imperative that the procedures detailed above be followed in all activities of this nature to ensure compliance with the California Right to Financial Privacy Act. This Act provides that "Any person, who, with the intent to violate, knowingly participates in a violation of this chapter is guilty of a misdemeanor, and upon conviction shall be imprisoned for not more than one year, or fined not more than five thousand dollars (\$5,000), or both".

Any problems or questions which arise as a result of the Act, and which cannot be resolved in the district, should be referred to the Supervisor of the Collection Section.

RELEASE OF FINANCIAL INFORMATION —

FORM BT-869

BT-869 (5-77) RELEASE OF FINANCIAL INFORMATION	STATE BOARD OF EQUALIZATION DEPARTMENT OF BUSINESS TAXES
	RELEASE INFORMATION TO RD OF EQUALIZATION
I/We,	AXPAYER) hereby authorize
(Lune of the	to release to
(NAME AND ADDRESS OF FI	NANCIAL INSTITUTION)
(NAME AN	an official
representative of the California State Board of	Equalization, the following financial records covering
the period from	to
Descrip	otion of records
·	
_	_
_	
This authorization expires How	vever, I reserve the right at any time to revoke this
authorization. (DATE)	
(SIGNATURE)	Account No
	(DATE)
	pose of making an examination pursuant to the provi-
·	
sions of the	tax law.
(ADMINISTRATOR)	(DATE)
-	(TITLE)
Return of the above-described records is ack	nowledged:
(NAME OF FINANCIAL INSTITUTION) By	(DATE)
-, <u></u>	(TITLE)

RELEASE OF FINANCIAL INFORMATION —

(CONT. 3) 135.072

RECOMMENDED ACKNOWLEDGMENT LETTER

o:	Account No
This i	o notify you that the records listed below for the period from
to	were examined by the California State Board of Equalization pursuant to the
provis	ns of the tax law.
These	cords have been returned to the possession of
	(NAME OF FINANCIAL INSTITUTION)
on	(DATE)
	DESCRIPTION OF RECORDS
ou may re	est the reason for the examination if you wish.
	Very truly yours,
	District Administrator
	Ву
	Title
	(Recommended Acknowledgment Letter)

FINANCIAL PRIVACY ACT — SERVICE OF SUBPOENAS

135.073

The procedures to be followed for the issuance of a subpoena for records are contained in CPPM Subsection 799.050. Requests for the issuance of a subpoena must be directed to and coordinated with the legal staff.

The California Right to Financial Privacy Act provides in Section 7474 of the Government Code that when an administrative subpoena is served on a financial institution, a copy must be served on its customer under provisions in Chapter 4 of the Code of Civil Procedure (CCP), commencing with Section 413.10. The customer must be allowed 10 days after service to move to quash the subpoena, if he or she wishes. The legal staff advises the following methods of serving a copy on the customer may be used.

- 1. Personal service (CCP Section 415.10).
- 2. Leaving a copy at the customer's office in the presence of an adult apparently in charge or at the customer's home in the presence of a competent adult member of the household, and then mailing a copy to the customer at the office or home where a copy was left. Service is complete 10 days after mailing (CCP Section 415.20).
- 3. Mailing a copy with a form for acknowledgment. Service is complete when acknowledged. If not acknowledged, the customer may be held liable for cost of personal service (CCP Section 415.30).
- 4. If the person is outside the state, a copy may be sent airmail requiring a return receipt. Service is complete 10 days after mailing (CCP Section 415.40).
- 5. If no other service is feasible, service by publication in a newspaper may be used. This requires a court order, and it must be shown that the customer has an interest in property in this state or that certain other requirements are met (CCP Section 415.50).

In most cases, one of the above methods of service would probably be feasible; although for these purposes, method No. 3 is largely impractical and should only be considered if methods No. 1 or 2 fail.

INFORMATION PRACTICES ACT

135.074

The Information Practices Act of 1977 (Title 1.8 of the Civil Code) places strict requirements on state agencies in the collection, use, maintenance, and dissemination of information relating to §individuals. Since an individual is defined as a natural person, the act does not apply to partnerships or corporations, as such.

The term "Personal Information", as amended by SB626 (Chapter 595, Statutes of 1985), includes, but is not limited to, the individual's name, social security number, home address, home telephone number, financial matters, and statements made by, or attributed to, the individual.

Although the act generally prohibits the distribution of individual's names and addresses for commercial purposes (for purpose of financial gain), it specifically allows the release of names and addresses of persons who are registered with, or are holding licenses or permits issued by the Board of Equalization. Therefore, the Board makes nonconfidential registration information available to private sector requestors. Requests for information from the Board's master registration file on magnetic tape, cards, and listings should be referred to the Deputy Director, Administration (see also CPPM Subsection 130.041 and 130.042).

INFORMATION PRACTICES ACT

(CONT. 1) 135.074

The Board may disclose other personal information about "individual" taxpayers under the conditions shown in Civil Code Section 1798.24. These include:

- 1. To the individual to whom the information pertains (with proof of identity).
- 2. With written, voluntary consent of the subject individual, if consent was obtained not more than 30 days prior to disclosure, or in the time limit agreed to by the individual in the written consent.
- 3. To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected. (Disclosure or accounting requirements as specified in the act must be met.)
- 4. To another person or governmental organization to the extent necessary to obtain information required for the Board's investigation of failure to comply with a specific law which the Board is responsible for enforcing.

Section 1798.67 also provides for the disclosure of information relating to the identity of a person against whom a lien or encumbrance on real property has been recorded in order to distinguish the person from another with the same or similar name.

The Board must maintain the source of information collected and, when requested, provide it unless the source is exempt from disclosure.

The Information Practices Act provides penalties for persons who intentionally violate its provisions. The penalties apply to those who furnish or obtain information improperly.

Questions concerning policies and procedures related to the Information Practices Act should be referred to the Information Security Officer.

GUIDELINES FOR RELEASE OF AN INFORMANT'S NAME

135.075

Background and Legal Requirements

Periodically, members of the public (informants) will contact the Board with information regarding a taxpayer's alleged fraudulent activity. In some cases, the information is verbal, while in others, copies of documents might be provided. Some informants choose to remain anonymous, while others identify themselves or can be identified from the information provided.

The Information Practices Act (California Civil Code, § 1798 et seq.) requires the disclosure of all information found in an individual taxpayer's files when the individual so requests. Some exceptions to the disclosure rule include situations where the information:

1. "Is compiled for the purpose of a criminal investigation of suspected criminal activities, including reports of informants and investigators, ..."

(Civil Code Section 1798.40(b))

2. "Is maintained for the purpose of an investigation of ... a grievance or complaint, or a suspected civil offense, so long as the information is withheld only so as not to compromise the investigation or a related investigation. The identities of individuals who provided information for the investigation may be withheld pursuant to Section 1798.38."

(Civil Code Section 1798.40(d))

GUIDELINES FOR RELEASE OF AN INFORMANT'S NAME

(CONT. 1) 135.075

Under Civil Code Section 1798.38, an agency may withhold the identity of a source if there has been a promise of confidentiality and the information is withheld because it led to civil investigation of the individual involved. However, even though the identity of the source may be withheld, the agency is still required to:

"... fully inform the individual of all personal information about that individual without identification of the source. This may be done by providing a copy of the text of the material with only such deletions as are necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material."

(Civil Code Section 1798.38)

The promise of confidentiality is a requirement if the Board is to withhold an informant's name. It is essential that any promise of confidentiality to an informant be documented and <u>clearly</u> noted on or attached to any information which divulges the identity of the informant. This should prevent improper release of the informant's name.

Information obtained from an informant is to be withheld during the pendency of an investigation (audit or other inquiry). At the conclusion of the investigation, the identity of the informant will be withheld if a promise of confidentiality has been made. The information provided by the informant, however, must be provided if the taxpayer requests it. As provided by the Civil Code, either copies of the information, with the identification of the informant properly deleted, or a comprehensive summary of the substance of the material will be provided in response to such a request.

Providing a comprehensive summary of the information is the preferable approach if there are any physical characteristics of the information (handwriting, spelling or grammar, identifying marks, unique details) which would result in the identification of the informant.

Whichever method is used, the Board shall ensure that full disclosure is made to the individual of any personal information that could reflect or convey anything detrimental, disparaging, or threatening to the individual's reputation, rights, benefits, privileges, or qualifications.

Finally, the Information Practices Act is not the only law which impacts the Board's actions in withholding information revealed by informants. Occasionally, circumstances involving discovery proceedings in active court cases or a defendant's right to face his or her accuser may require the disclosure of specific information, including the informant's name. These situations would result from court proceedings, and the Board's records would be subpoenaed. Should this circumstance arise, the matter must be referred to the Board's legal staff and/or the Deputy Attorney General assigned to the matter for decision and response.

EXCHANGES OF CONFIDENTIAL INFORMATION

140.000

GENERAL 140.010

It is extremely important that only authorized parties release and receive confidential information. For complete details, refer to the Board of Equalization Administrative Manual (BEAM), Section 7200 et seq. or the Information Procedures Handbook, Pamphlet No. 58.

AUTHORIZED AGENCIES

140.020

Arrangements have been made for the exchange of "confidential" information by the Board and other state agencies and the Federal Government. See BEAM, Section 7200 et seq., for authorized agencies, the tax programs the agreements relate to, and other provisions of authorization.

California state agencies include, but are not limited to:

Department of Alcoholic Beverage Control Franchise Tax Board Employment Development Department Department of Motor Vehicles Public Utilities Commission Department of Industrial Relations

Each authorized agency will make available to any properly identified officer or employee of another authorized agency, all information including that of a confidential nature in their possession, providing that the information will be used in the proper administration of the state tax laws with which each agency is charged. (Exchanges with the Department of Alcoholic Beverage Control are limited to authorized representatives.)

Arrangements have also been made to honor requests for confidential information by §authorized employees for agencies of other states. These include, but are not limited to:

- Tax Commission, State of Nevada
- State Tax Commission and Department of Taxation and Finance State of New York

The Federal agreement includes, but is not limited to:

- Interstate Commerce Commission (Requests for information must be made in writing).
- Internal Revenue Service (Names of Board of Equalization employees authorized to inspect IRS records are required prior to inspection).

All reciprocal agreements provide that information may only be given after proper identification. Therefore, officers or employees of other agencies and of this Board must present their credentials when making a personal request for information (see CPMG Section 170.000).

FILE DOCUMENTATION 140.030

Documentation of disclosures made pursuant to an Order of the Governor authorizing such disclosures is not required under the Revenue and Taxation Code. In limited circumstances, the Information Practices Act (Civil Code Section 1798 et seq.) requires an accurate accounting of the date, nature, and purpose of each disclosure made about individuals, (Civil Code Section 1798.25). Such an accounting is not necessary if notice of the disclosure has been provided to the individuals pursuant to Civil Code Sections 1798.9 and 1798.10. The Board of Equalization has complied with the provisions of Section 1798.9 and 1798.10 by filing a privacy notice notifying individual that information is exchanged with other state agencies. As such, no further documentation of disclosures of information need be made in a taxpayer's file.

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CORRESPONDENCE 150.000

FORMAT AND CONTENTS

150.010

Letters to taxpayers, organizations and the general public will be on letterhead of the Board of Equalization and will contain the signature, typewritten name, and working title of the authorized signer. (See the "Working Titles at the Board" section of the Writer's Manual.) The interoffice memorandum form should not be used.

Section 7525 of the Government Code requires state agencies to place telephone numbers on official stationary used in communications with the public. This requirement includes Data Processing printed forms in addition to manually prepared forms and letters. Therefore, the Business Taxes Systems Coordinator and the Document Design and Control Unit should each be notified by memorandum whenever changes are made in district or branch office telephone numbers or addresses. The notices should be given as soon as firm information is available and should include the effective date of the change so data processing originated information and preprinted forms, envelopes, and phone listings may be corrected.

All board correspondence must serve as a complete source of the questions asked, the facts presented and the answer given. Accordingly, all letters by the board staff in response to tax questions obtained through personal contact with the taxpayer after receipt of the letter will be included in the response and will be identified as to source.

In responding to accountants, attorneys, or other taxpayer representatives in situations where the representative has not divulged the name of the taxpayer, the writer will ask that the representative divulge the name of the taxpayer to enable the Board to maintain appropriate records with respect to the information provided. Tax advice to trade associations, taxpayer representatives failing to identify their clients or taxpayers whose questions are vague or general in nature, should include a statement indicating that the answer given is intended to provide general information regarding the application of the tax. Where individual taxpayers are identified, but background information is incomplete, the taxpayer should be encouraged to write again, setting forth the specific facts. The staff is encouraged not to make presumptions, however, should it become necessary to do so, they should be clearly identified as such in the letter.

When correspondence may cause recipients to contact their own or another Board Member, the Board Members should be copied. An example of such correspondence would be a letter sent to an entire class of taxpayers. (Always send a cc to the Executive Director when sending a cc to Board Members.)

REVIEW 150,020

District administrators and Headquarters supervisors will review all letters involving tax questions to ensure that the information is correct and in the proper format. The review with respect to letters which state a particular activity or transaction is exempt from tax (exempt letter) will be completed before the letters are mailed.

Copies of all correspondence should be initialed in the lower right hand corner after being reviewed.

MODIFICATION/RESCISSION OF PRIOR ADVICE

150.025

Where an opinion has been issued, and it is subsequently determined that the tax advice as applied to the facts given is incomplete or incorrect, appropriate modification or recision letters should be sent to the taxpayer.

Written advice may also be invalidated by statutory or constitutional law, a change in the Board's regulations, or a final decision of a court, rendering the Board's earlier written advice no longer valid.

Tax advice may only be relied upon by the taxpayer to whom is was originally issued. Accordingly, whenever a change in legal ownership occurs, successors relying on this prior advice in the continuing operation of the business would not be entitled to relief based upon reasonable reliance on written advice from the Board.

DISPOSITION OF CORRESPONDENCE

150.030

District administrators and Headquarters supervisors will maintain records regarding the number of letters received and responded to. This data, along with copies of all letters confirming transactions of an exempt nature or rescinding prior "exempt" correspondence should be accumulated monthly. This information, including the taxpayer's original inquiry, will then be forwarded to the Audit Evaluation and Planning Section. That section will be responsible for a final review of the letter's accuracy. Any correspondence requiring adjustment will be returned to the originating party.

Special Taxes Division administrators will maintain records and accumulate information as noted above and will be responsible for a final review of the letter's accuracy. Pertinent information will then be forwarded to the Program Planning and Evaluation Division.

GUIDELINES FOR RELIEF OF TAX AND PENALTY OR INTEREST—RELIANCE ON WRITTEN ADVICE

150.040

Section 6596 of the Revenue and Taxation Code provides statutory authority for the Board to relieve taxpayers of sales and use tax and any penalty or interest added where the Board finds that the failure to make a timely return or payment was due to the taxpayer's reasonable reliance on written advice from the Board. The majority of the tax and fee programs contain statutes with similar provisions; therefore special taxes staff should also be guided by the procedures of this section.

Relief is provided only where there has been written advice by the Board in response to a request, in writing, from a specifically identified taxpayer who, in turn, described fully the specific facts and circumstances of the activity or transaction for which advice was requested.

PERIODS OPEN TO SECTION 6596 REQUESTS

Section 6596 does not specifically limit requests for relief to periods after January 1, 1985. Accordingly, relief may be granted to taxpayers under this section, regardless of when the advice was given, provided the taxpayer has not exhausted all administrative remedies.

The taxpayer will be required to demonstrate that all of the conditions set forth in Section 6596 have been met.

GUIDELINES FOR RELIEF OF TAX AND PENALTY OR INTEREST— RELIANCE ON WRITTEN ADVICE

(CONT.) 150.040

SECTION 6596 CLAIMS/PETITIONS

Any taxpayer seeking relief under Section 6596 should be informed that they <u>must</u> furnish a copy of their original written inquiry to the Board, along with a copy of the Board's written advice. Documentation furnished should also include a statement under penalty of perjury, setting forth the facts on which the claim for relief is based. Only the person making the original tax inquiry is entitled to rely on the written advice received from the Board. If any of these conditions are not met, the taxpayer should be informed that his or her request cannot be accepted as a valid claim/petition under Section 6596. Taxpayers whose claims/petitions are not accepted, should be informed of the Board's appeals procedures.

Petitions for redetermination, late protests, or claims for refund received in district offices, under Section 6596, should be forwarded to the appropriate headquarters unit or Special Taxes Division. District personnel should comment as they deem appropriate. While the Board has not authorized the staff to make Section 6596 adjustments or credits, district personnel are encouraged to submit recommendations regarding the acceptability of the documentation provided by taxpayers.

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PROCESS FOR REVIEWING LOCAL TAX REALLOCATION INQUIRIES

160.000

SUBMITTING INQUIRIES

160.010

To expedite processing, requests should be submitted by the inquiring jurisdiction or consultant (IJC) on form BT–549–L or BT–549–S. All inquiries are to be sent directly to the Board's headquarters office, rather than to a district office. Inquiries should be mailed to:

Allocation Group Board of Equalization 450 N Street, MIC 39 P.O. Box 942879 Sacramento, CA 94279–0039

ACKNOWLEDGMENT OF INQUIRY/DATE OF KNOWLEDGE

160.020

Inquiries will be acknowledged within 30 days of receipt by the Board (as used in this section, the term *days* refers to calendar days). They will be logged in by account number, jurisdiction (if known), and consultant firm (if any).

If the inquiry has sufficient facts to indicate the probability of a misallocation, the date of knowledge will be the date the inquiry was received by the Board.

If the inquiry does not provide sufficient facts, and if the IJC has made a good faith effort to obtain sufficient facts but has been unable to do so, the IJC should include a letter with the inquiry, indicating what it has done to obtain those facts. If such a letter is provided, the Board can use the date the inquiry was received as the date of knowledge.

If the inquiry does not contain sufficient facts, it will be returned to the IJC with an explanation.

STAFF REVIEW 160.030

Inquiries accepted for investigation will be coded for type of misallocation and assigned to an auditor. The auditor will attempt to resolve all inquiries through correspondence with taxpayers. If for some reason a satisfactory response cannot be obtained, the inquiry may be referred to the appropriate district office for action.

Whenever any action is taken, such as writing to the taxpayer for information, or if necessary, referring the inquiry to the district office, this action will be noted in the log with the appropriate follow-up established (45 days for taxpayers, 60 days for in-state district offices, and 90 days for out-of-state district offices).

A copy of any correspondence will be sent to the inquiring entity. The IJC should receive copies of correspondence within 90 days of acknowledgment of receipt of the inquiry. The follow-ups for each week will be distributed each Monday morning to the auditor for appropriate action.

NOTIFICATION OF RESULTS

160.040

After an inquiry has been reviewed, the inquiring entity will be notified of the results.

Approved Reallocations

If staff's investigation confirms a misallocation and the recommended reallocation is less than five thousand dollars, a fund transfer will be processed.

All recommended reallocations over five thousand dollars must be approved by the auditor's supervisor and forwarded to Legal for review. If both the supervisor and legal staff approve the reallocation, the fund transfer will be processed.

A monthly recap of all approved reallocations will be maintained.

NOTIFICATION OF RESULTS

(CONT.) 160.040

Denied Reallocations

If the auditor recommends that the reallocation request be denied, his or her supervisor will review the recommendation. If the supervisor upholds the denial, the IJC can ask that the denial be reviewed at subsequent stages by the supervisor of the Audit Refund Section, the Audit Program Manager, or by a Board Management team, as described below. The IJC can also ask the Members of the Board to review their request if it is denied.

If any previously denied request for reallocation is recommended for approval at any level prior to consideration by Board Management, that recommendation must be reviewed by the legal staff. If the legal staff approves the recommendation, the reallocation will be processed.

Review by the auditor's supervisor

If the auditor determines that a misallocation has not occurred and recommends that a request for reallocation be denied, his or her supervisor will review the denial and discuss it with the IJC. The discussion will be memorialized in writing and sent to the IJC. The supervisor may uphold the denial, or, if deemed appropriate, order that additional investigation be done by the staff.

If the auditor's supervisor upholds the denial, the IJC will be advised in writing that they have 30 days from the date of the written denial to request a meeting with the supervisor of the Audit Refund Section, or his or her designee.

Review by the Audit Refund Section supervisor

If requested by the IJC, the Audit Refund Section supervisor will review the alleged misallocation. The Section supervisor will give the IJC the opportunity to meet and discuss the recommended denial. The IJC may, at its option, provide a written brief or additional information instead of attending a meeting. The section supervisor may uphold the denial, order that additional investigation be done by the staff, or approve the request for reallocation.

If after the meeting or after reviewing the brief, the Section supervisor upholds the staff's recommendation, the IJC will be so advised in writing and informed that it has 30 days from the date of the written notification to file a written request for reconsideration (RFR) with the Audit Program Manager's office. In its request for reconsideration, the IJC may request a meeting with the Audit Program Manager or submit supporting factual information and arguments.

Review by the Audit Program Manager

The Audit Program Manager will issue a Report of Analysis and Conclusions setting forth his decision. The Audit Program Manager may uphold the denial, order that additional investigation be done by the staff, or approve the request for reallocation.

If the staff's previous recommendation is upheld, the notification will include instructions that the IJC may within 30 days file a written request for a final reconsideration of the denial.

Review by Board Management

The final reconsideration by staff will be a review by Board Management consisting of the Executive Director, Chief Counsel, Assistant Chief Counsel for Sales and Use Taxes, and the Deputy Director of the Sales and Use Tax Department. The Board management will consider the facts as developed and may uphold the denial, order additional investigation by the staff, or approve the request for reallocation. A summary of the facts and conclusions will be prepared in writing and provided to the IJC.

Review by Members of the Board

An IJC may request any Board Member to bring its request for a reallocation to the Board's attention. If any of the Board Members wish to do so, they may request that the Board hear the matter. However, such a request must be approved by a majority vote of the Board Members.

TIME LIMITATIONS 160.050

To avoid unnecessary delays, a consultant or jurisdiction will be limited to one extension of the time limit established for each level of review.

If staff fail to take action beyond acknowledgment on any inquiry for a period of six months, the IJC may request advancement to the next level of review. For the purpose of these procedures, action does not mean approving or denying the inquiry, but rather taking the steps necessary to investigate the inquiry.

By following the above time limits, any date of knowledge established by the original inquiry will remain intact even if additional supporting information is provided prior to final closure. However, if the above time limits or any extensions which are granted are not met, or if final closure has occurred, any additional supporting documentation submitted will establish a new date of knowledge as of the date of receipt of the new information.

APPEAL RIGHTS OF JURISDICTIONS THAT WILL LOSE REVENUE AS THE RESULT OF A REALLOCATION

160.060

If at any time during the process the Board's investigation determines that a misallocation has occurred, any jurisdiction that will lose 5% of its quarterly allocation or \$50,000, whichever is less, will be informed of the decision and, if requested, given 30 days to request a meeting with the section supervisor. The losing jurisdiction may follow the same appeals procedure as described above. The reallocation will be postponed until the period for the losing jurisdiction to request a hearing with the section supervisor has expired. If the losing jurisdiction does request a meeting, the postponement will be extended pending final outcome of the appeal.

There are times when Board staff becomes aware of a misallocation through independent means, for example an audit of a taxpayer. In these situations jurisdictions losing 5% or \$50,000, whichever is less, of its quarterly allocation will be informed of the proposed reallocation, and if requested given 30 days to request a meeting with the section supervisor. These jurisdictions may follow the appeals procedure described above.

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ACCOUNTS CLASSIFIED CONFIDENTIAL

170,000

CONFIDENTIAL INDICATOR

170.010

The Board routinely makes available taxpayer names and business addresses to a number of persons as required by the California Public Records Act. However, for reasons of personal safety, a few accounts are programmatically flagged to prevent release of these taxpayer names and addresses. Justification to withhold this information is required under §6254 of the Public Records Act and must be approved by the Information Security Officer. The Unysis Registration System will flash, "Confidential! Do Not Release Information About This Account!", for a confidential account,. The Teale Registration System, will flash, in red, "C O N F I D E N T I A L". Information should not be provided to the general public on these accounts.

VERIFICATION OF RESALE CERTIFICATES AND PERMITS

170.020

Sellers seeking to verify resale certificates should provide the district with the <u>name of the business</u>, its location, and the purchaser's seller's permit <u>account number</u>. With this information, the district can then verify and inform the seller whether the account is active or closed-out. No other information may be given to the public on an account which has been flagged as confidential.